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FR-4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. AB 272X]

Morristown & Erie Railway, Inc.—Abandonment Exemption—In Roseland, Essex County, N.J.

Morristown & Erie Railway, Inc. (M&E) has filed a verified notice of exemption<sup>1</sup> under 49 CFR pt. 1152 subpart F—Exempt Abandonments to abandon less than one mile of rail line consisting of 490,140 square feet located on the westerly side of Harrison Avenue, part of Block 12, between milepost 9 and the end of the line at Harrison Avenue in the Borough of Roseland, Essex County, N.J. (the Line). The Line traverses U.S. Postal Service Zip Code 07068.

M&E has certified that: (1) no local or overhead traffic has moved over the Line for a least two years; (2) any overhead traffic that could move over the Line can be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

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<sup>1</sup> M&E filed its notice of exemption on July 14, 2016. On July 25, 2016, M&E filed copies of correspondence inadvertently omitted from its initial filing.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 2, 2016, unless stayed pending reconsideration.<sup>2</sup> Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 12, 2016. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 23, 2016, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

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<sup>2</sup> Although M&E states in its verified notice that the proposed consummation date of this transaction is August 15, 2016, this transaction cannot be consummated until September 2, 2016 (50 days from its filing date). 49 CFR 1152.50(d)(2).

<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 CFR 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to M&E's representative: John K. Fiorilla, Capehart & Scatchard, PA, 8000 Midlantic Drive, Suite 300S, Mt. Laurel, NJ 08054.

If the verified notice contains false or misleading information, the exemption is void ab initio.

M&E has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 8, 2016. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), M&E shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by filing of a notice of consummation by August 3, 2017, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 29, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kenyatta Clay

Clearance Clerk

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